

Senator Sessions Senate Floor Speech On Opioid Epidemic

March 7, 2016

“Madam President, I would like to talk for a few minutes about the crime problem we have in America today, the dramatically increasing problem of heroin abuse. Over the last week, we have had a lot of discussion about this crisis, which I am afraid we are just on the cusp of. I think it is going to get worse, based on my experience and my best judgment, but the effort to understand and address it has been going on for a while.

In January, we had a good hearing on this issue in the Senate Judiciary Committee, and I want to mention a few things I think we ought to keep in mind as we address this very important problem.

Just as background, I served 15 years as a prosecutor, 12 as a U.S. attorney, a Federal prosecutor, and 2 1/2 as an assistant U.S. attorney. So that was my background when I came here. I was very active and studied the drug and crime problem in America, and I learned some things.

There are cycles in this, and people wrote about it over the years. I think we are, unfortunately, moving into another cycle, and we have to be very careful. It is so painful to have a large prison population. We don't want to have that. Year after year, everybody wants to look for alternatives to prison, and we have tried, but if you go too far, you end up not having sufficient consequences for crime, not detaining dangerous offenders, and you end up increasing crime, increasing deaths of Americans from murders and other things, increasing heroin and serious drug problems that destroy families, destroy lives, destroy communities, and result in violence and death. It is a very real problem.

A lot of people think, well, if you want to use heroin, so be it. Well, these people can't function. How are they going to survive? They either steal or they get on welfare or they have to go to treatment. And who pays for it, since they do not have any money?

We have proven and seen for decades that drug use can be brought down, fewer people can become addicted. In the early 1980s, Nancy Reagan, as President Reagan's wonderful wife, formed the ‘Just Say No’ program, and hundreds of thousands of volunteers nationwide in every community in America got together in their communities – they got the treatment community, the law enforcement community, the prevention community, the education community, and the schools – and they worked and worked and crafted policies that would create a climate of hostility for the use of dangerous drugs. The idea was to bring down the use. As a result, the use of illegal drugs dropped by half. It took us 15 or more years, but it dropped by half steadily. What a tremendous victory.

In 1980, half of our high school seniors admitted they had used an illegal drug sometime in that year. What an unbelievable number. It had been going up steadily, it peaked, and then it began to go down under this sustained effort.

What I have been worried about for some time, and have warned about it, is that if you don't maintain that but start going in the other direction, you can expect drug use to increase. It is that simple. And it is happening. Lives – and young people's lives – will be destroyed by this, families will break up, and children will be scarred.

Drug use is no fun, innocent thing. It is destructive. If this Nation is using half as much illegal drugs as before, it is a better nation. It just is. And if we double the amount of drug use in America, it will be a more dangerous Nation and not as good a nation.

According to the Centers for Disease Control and Prevention, over 47,000 people died from drug overdoses in the United States in 2014. In 2014, 47,000 died. That is one drug overdose death for every 12 minutes. And 61 percent of those overdoses involved opioids. The rate of all opioid overdoses in the United States has tripled since 2000. Overdoses have tripled since 2000. Heroin overdose deaths specifically have increased sixfold since 2001 – 600 percent – and have more than tripled in just the past 4 years alone. According to the National Survey on Drug Use and Health, there were approximately 169,000 new heroin users in 2013.

According to the Substance Abuse and Mental Health Services Administration, in 2004, approximately 589,000 people in the United States had an opioid use disorder. We used to call that addiction a problem. It is affecting their lives.

The Drug Enforcement Administration's 2015 National Drug Threat Assessment noted that "drug overdose deaths have become the leading cause of injury death in the United States, ahead of motor vehicle deaths and firearms."

This is a significant matter. As DEA Acting Administrator Chuck Rosenberg, a bright, young mind appointed by President Obama, noted last July that '[a]pproximately 120 people die each day in the United States of a drug overdose.'

Some argue that the increase in heroin abuse is due to over-prescription of opioids from prescription drugs – you get addicted from a prescription drug, and then you move to heroin. I am sure that has some validity, but according to a January 14, 2016, study published in the New England Journal of Medicine, one of the premier authoritative medical journals in the world:

'In the majority of studies, the increase in the rates of heroin use preceded the change in prescription opioid policies, and there is no consistent evidence of an association between the implementation of policies related to prescription opioids and increases in the rates of heroin use or deaths, although the data are relatively sparse. Alternatively, heroin market forces' – please hear this, colleagues – 'Alternatively, heroin market forces, including increased accessibility, reduced price, and high purity of heroin appear to be major drivers of the recent increases in rates of heroin use.'

So it is purity, price, and accessibility. While treatment and accountability are critical to breaking the cycle of addiction, it is not the whole solution. We must also reduce the availability of heroin – we simply have to do that – and other illicit opioids.

In December of last year, the Centers for Disease Control and Prevention Director Tom Frieden said it is important ‘that law enforcement’ – a lot of people don't want to talk about this. We have police officers, sheriffs’ deputies, Federal agents, drug enforcement agents, and Border Patrol agents. He said it is important ‘that law enforcement intensify efforts to reduce the availability of heroin, illegal fentanyl, and other illegal opioids.’ Similarly, Drug Enforcement Administration Acting Administrator Rosenberg said in the DEA's National Drug Threat Assessment that, in addition to providing treatment to addicted opioid abusers, ‘law enforcement must continue to have the tools it needs to attack criminal groups who facilitate drug addiction.’

I have been there. I was part of law enforcement's efforts. I invested a tremendous amount of my time in the Coalition for a Drug Free Mobile, the Partnership for Youth, Bay Area Drug Council – groups like that – working on a volunteer basis to change the use of drugs in the community. Law enforcement was always a critical part of it, and law enforcement does have the capability in ways that others don't to reduce the availability, make purity levels less, and otherwise restrict, raising the price of an illegal drug. The DEA's 2015 National Drug Threat Assessment confirms this. They studied the price of the drugs. One thing that tells us whether or not law enforcement and interdiction are effective is to discover if the price is going up or down.

Mexican drug cartels are flooding the United States with cheap heroin and methamphetamine. When I was a young prosecutor, it was coming from Turkey, the Middle East, and that was pretty much shut off. President Carter did some good things. I was an Assistant U.S. Attorney and came back a few years later as a U.S. Attorney, but during that time they somehow reduced the supply of heroin from the Middle East. As a result, heroin addiction dropped all over the country, and very little heroin was in the heartland of America – mainly just in the big cities.

We are also getting cheap methamphetamine from across the Mexican border, which is wide open. The statistics from the DEA Drug Threat Assessment confirm that, from 2010 to 2014, the amount of heroin seized every year at the southwest border has more than doubled. Well, are we catching that much more? No, we are not catching, I am sure, any substantially larger percentage. We are just having a larger amount moving across the border. The price has fallen, so we know we have more. If prices stay low, more people will try it more often, and as the purity level is higher, more people will get addicted sooner and often die quicker.

These drug cartels are partnering with criminal gangs and fueling violence in our cities and communities. According to DEA's 2015 Threat Assessment, Mexican drug cartels "control drug trafficking across the Southwest Border and are moving to expand their presence in the United States, particularly in heroin markets." They import, transport, and are now actually selling it in our cities instead of just bringing it in across the border.

In 2013, the heads of the Chicago Crime Commission and the Chicago Office of the Drug Enforcement Administration both named ‘El Chapo’ Guzman, the infamous leader of the Sinaloa Cartel, as Chicago's ‘Public Enemy #1.’ So a man in Mexico, moving heroin and methamphetamine into the United States and hammering Chicago with it – Chicago named him as their No. 1 public enemy. It cannot be a coincidence, as the FBI's uniform crime statistics show, that the murder rate in Chicago increased by approximately 18 percent during the first 6

months of 2015. At that rate, it is a 36 percent increase in murders in Chicago in 1 year. This is an unbelievably dramatic surge in murders.

Another example is Atlanta. DEA's Atlanta office reported an increase of heroin availability from a rating of 'stable' in the first half of 2013 to 'high' just a year later. According to the FBI's uniform crime statistics, the murder rate in Atlanta increased by approximately 15 percent in the first 6 months of 2015. This is an unsustainable thing. The old rule is a 7 percent increase and your money doubles in 10 years. When you get 15 and 18 percent increases in 6 months that's 30 percent in 1 year – you are doubling the crime rate, the murder rate, in 3 years.

At a November hearing of the Senate Caucus on International Narcotics Control, I asked DEA Deputy Administrator Jack Riley about these drug distribution networks and the people in local communities pushing the drugs, selling the drugs, and collecting the money. This money eventually ends up back in Mexico, Colombia, and South and Central America, funding the evil, violent drug cartels that are destabilizing whole nations. He responded that it is 'almost as big a problem as the cartels themselves.'

When I asked him whether these drug traffickers are the ones causing the violence and death on our streets, he responded that "they are the ones that regulate themselves by the barrel of a gun." If you want to collect a drug debt, you can't file a lawsuit in Federal court. You collect it by the barrel of a gun.

By its very nature, drug distribution networks are violent criminals. It has always been so, and it will always be so. Conducting an illegal enterprise, they have to maintain discipline, and they use threats and violence to maintain it and collect their debts. We must not forget what became obvious in the early 1980s, when I was a U.S. Attorney: Drug dealers and their organizations are not nonviolent criminals. These are violent crimes.

Rather than enforcing the law and making it tougher on drug cartels by keeping our border secure, the Obama administration has done exactly the opposite. Our unsecured borders make it easy for the cartels to flood our country with cheap heroin, and the administration has made it clear that officers are not to deviate from the President's lawless immigration policy. They are blocked from doing their job and following their oath.

Just last week – and as someone who has worked closely with Federal Drug Enforcement officers and immigration officers as a Federal prosecutor – Customs and Border Protection Commissioner Gil Kerlikowske testified before the House Committee on Appropriations that 'if you don't want to follow the directions of your superiors, including the president of the United States and the commissioner of Customs and Border Protection, then you really do need to look for another job.'

Do you hear what he is saying there, colleagues? What he is saying is that if you want to do your job and enforce the laws as the laws are written, which we have ordered you not to do, and you go on and do it anyway, then look for another job. It is one of the most amazing things I have seen in my entire law enforcement career. ICE officers – Immigration and Customs Enforcement officers – who enforce drug laws, along with immigration laws, these officers sued

their supervisors. They sued their supervisors, alleging that they were being ordered to violate their oath to enforce the immigration laws of the United States by these restrictive policies.

It is hard to overestimate the destruction the Obama administration's policies – their Executive amnesty, their refusal to sufficiently fund and man the border – are causing to law enforcement. A big part of this now is the openness to heroin, methamphetamine, marijuana, and other drugs that are being imported. I take that statement by the Commissioner of Customs and Border Protection as a direct threat to those officers who want to follow their oath and do their duty.

In August 2013, a dramatic event occurred that was too little appreciated. Attorney General Holder, the Attorney General of the United States, ordered Federal prosecutors not to charge certain drug offenders with offenses that carry mandatory minimum sentences that are in law. If you have so much drugs, you have a minimum penalty. You can get more than that, but you at least have to serve this minimum penalty. He ordered them not to charge those crimes. This is directing prosecutors not to follow the law. It has contributed to a decrease in the number of traffickers being prosecuted and convicted. According to data from the Executive Office for United States Attorneys, at the end of 2015 – in December – the 6 month average of drug prosecutions was down 21 percent compared to 5 years ago. And what are we seeing? A surge in crime, particularly drugs. Excluding prosecutions in magistrate courts, the 6 month average was nearly 32 percent lower at the end of 2015 than 5 years ago. We haven't cut the number of drug prosecutors. We haven't cut the number of DEA agents. This is policy that softens the enforcement of drug crimes against what we have been doing for 25 years, and it is having an impact. I am afraid it is going to continue.

Meanwhile, State and local law enforcement agencies are not given the tools they need to continue taking these dangerous drug traffickers off of the streets.

On December 21, 2015, the Department of Justice chose to stop all equitable sharing payments to State, local, and tribal partners under the Asset Forfeiture Program. These are seized proceeds, moneys that are seized from drug dealers, big fancy cars and boats that they seize. For the last 20 years, Federal and State officers worked together. The Federal Government has a good system for forfeiting the money. Then, when the forfeiture is over, it is divided among the agencies. As a result, State and local people are willing to commit law officers to participate in these local task forces because they are helping clean up drugs in their community, helping identify and prosecute nationally significant drug dealers, and they get some compensation back from it when they find a truck full of money.

I personally have seen cases where \$1 million, \$500,000, \$800,000 in cash was seized from these people. Some people think: oh, this is wrong; you shouldn't take their cash. This is the ill-gotten gain of an illegal enterprise and they should be able to keep it? They have no proof of any lawful source of this money. Virtually every time, in addition, there is evidence to prove it is connected to drugs. Half the time, they don't even show up to contest the seizure because they know they have no defense to it. This stops this sharing, and it is undermining the unity of effort that we really need to be successful.

A joint letter signed by the International Association of Chiefs of Police, the National Association of Police Organizations, the Major County Sheriffs' Association, the National Sheriffs' Association, the National District Attorneys Association, and the Major Cities Chiefs Association, pointed out that 'the suspension of equitable sharing payments may cause some agencies across the country to reconsider their ability to participate in joint task forces with the Federal Government.'

In other words, they are going stop participating.

'The effects of this decision are far-reaching and not only a disservice to law enforcement, but also to the public they are sworn to protect.'

...

While law enforcement resources are being cut off, law enforcement officers are being blocked from doing their jobs, and drug prosecutions are being reduced, the administration and some in Congress want to push and advance a criminal justice "reform" bill. But these proposals will have a tendency, I am afraid, to worsen the current problem by allowing for more reductions in sentences than are already occurring and early release of thousands of dangerous drug traffickers, and the weakening of penalties for those prosecuted under our drug trafficking laws, which have already been weakened -- sending the wrong message at exactly the wrong time.

I am very concerned about this. I love my colleagues, and I know their hearts are in the right place, but I am convinced we should not be heading in this direction at this time.

Make no mistake, Federal prisons are not filled with low level, nonviolent drug possessors. According to the Bureau of Justice Statistics, 99.7 percent of drug offenders in Federal prison at the end of fiscal year 2012 were convicted of drug trafficking offenses, not drug possession. Drug trafficking is inherently violent activity, and it only serves to fund the drug cartels while fueling violence in our cities.

According to the FBI, violent crime overall increased across the United States during the first half of 2015, by 6.2 percent for murders and 17 percent in the larger cities for murder – the largest single year increase since at least 1960. Already this year, homicides in Chicago are double what they were all of last year.

This is a complex subject. It is too soon to know the total reason for this increase, but it cannot go unnoticed that over the last decade the Sentencing Commission, which sets standards for sentencing in the United States – outside of the minimum mandatories that are set by our law passed by Congress – has unilaterally imposed reductions in the sentences for drug inmates currently in prison. So we reduced the sentences for those in prison and they are getting out earlier. The most recent reduction in sentences resulted in the release of more than 46,000 drug traffickers – not drug possessors, drug traffickers – which has been wholeheartedly supported by the Obama administration.

According to Bureau of Justice Statistics, 77 percent of drug offenders released were rearrested within 5 years. Hear this now: 77 percent of these drug offenders were rearrested within 5 years,

with 25 percent of those rearrested being rearrested for a violent crime – somebody hurt, maybe dead. Maybe that is part of the murder rate increase.

Take Wendell Callahan, a Federal drug felon who was convicted of trafficking in crack cocaine and released early pursuant to the Sentencing Commission's directives. Upon his early release, he proceeded to brutally murder his ex-girlfriend and her two little girls, 7 and 10. He would have been deep into a 12 1/2 year Federal sentence if it had been maintained, but the Sentencing Commission reduced it. The judge granted his petition for early release because of his 'good behavior' in prison, and that led the judge to conclude he did not pose a danger to the safety of the public, even though in his background when he was convicted and got the 12 years, he had previously been convicted in connection with a shooting offense and another drug offense. This is why you have to have some controls on judges. I have been there, and I saw it before the sentencing guidelines were passed.

The Federal prison population is at its lowest level since 2008. We are already on a downward course of the drug Federal prison population being reduced. There are only 160,000 inmates in Bureau of Prisons custody today, well below its peak. The Bureau of Prisons has stated that this 'downward population trend is expected to continue into Fiscal Year 2017,' bringing the Federal prisons population to the lowest level since 2005.

The population is up. Crime is going up. The prison population is falling rather rapidly. Admissions to Federal prison have declined every year since 2011.

You hear: We are filling our prisons. We are doing more and more.

Actually, there are other things that are already happening. It is happening in State prisons, too, where larger numbers are incarcerated than in the Federal prisons. One of the reasons we are having this large decline in State prisons is not public safety but tight budgets. They are cutting back on the prison population to save money.

We can be smarter. Some people can be released early. I worked with my Democratic colleague, Senator Durbin, 6 years ago, I believe, and we reduced the crack penalties more significantly than a lot of people know. I thought that was justified. But we are now proceeding well beyond that, and it is causing me great concern.

The Attorney General has ordered the prosecutors to not charge certain criminal offenses. Reducing sentences and releasing felons is equivalent to reducing the cost to the criminal enterprise of their criminal activity. It reduces the cost, the risk. Thus, crime it is already rising would further increase as a result of the criminal justice 'reform' bill that would further reduce penalties.

Can we take a breath, and let's think about this? I don't say there aren't some things we can do that will allow for some reduction in the Federal prison population. Some people probably serve more time than is absolutely necessary. But in truth, we have seen dramatic improvements over nearly 30 years, 25 years, in the reduction of crime. Until this surge, murder rates were less than half what they were in 1980 when I became a Federal prosecutor. Drug use dropped

dramatically when Nancy Reagan started the 'Just Say No' program, and drug use began to steadily decrease. It is now beginning to steadily increase.

You have to have leadership from Washington. You can't have the President of the United States of America talking about marijuana like it is no different than taking a drink, saying I used marijuana when I was in high school and it is no different than smoking.

It is different. And you are sending a message to young people that there is no danger in this process. It is false that marijuana use doesn't lead people to more drug use. It is already causing a disturbance in the States that have made it legal. I think we need to be careful about this.

What if this is the beginning of another surge in drug use like we saw in the sixties and seventies that led to massive problems in our communities? The solution? Well, we have to control the border. All the heroin and a big chunk of the methamphetamine is coming across the Mexican border. We need barriers. We need more agents. People need to be arrested. They need to be deported. They don't get to be taken to some city in the United States they would like to go to and get released and asked to show up on bail, which they never do. That is an open invitation to illegality and illegal entry.

We need to enforce our laws, and we have to make the consequences of drug trafficking a deterrent. We can do this. We have done it before, and it is all part and parcel with prevention programs, education programs, and treatment programs. All that has to be done, but it cannot be denied, in my opinion, that law enforcement plays a critical role in it. This means supporting, not blocking the efforts of law enforcement to do their jobs and giving them the tools to arrest drug traffickers and be effective at the border, putting them in jail, not giving them early release so they can commit more crimes.

In January, a woman from Ohio named Tonda DaRe testified before the Senate Judiciary Committee at a hearing on the heroin and prescription opioid epidemic. She shared the powerful story of her daughter, who died from a heroin overdose. She said this:

'One of the things that I see happening in our little town that frustrates me is...our officers have worked so diligently to arrest people that they know are bringing this [heroin] in. Just [to] have them go in front of our judges and our judges just slapped these people on the wrist and sent them right back out the door....The boy that sold my daughter the heroin that killed her just recently went back in front of a judge for his fourth offense for trafficking heroin. [It was the] fourth time he's been arrested for this and he was given five months. How [is] that possible?'

We can talk about making sure we have treatment and recovery for people who have been addicted, although many people never ever recover from addiction except by the grave. That is the sad truth. We should make that a priority. But we cannot hope to solve these problems by only treating people on the back end of addiction without reducing the availability of those drugs and keeping the purity down and the cost up, not continuing to fall.

We have to stop people from becoming addicts in the first place, and we can't let the fact that we have a heroin abuse epidemic cause us to forget that we have a drug trafficking epidemic too.

Law enforcement is prevention. Experts tell us that the price, purity, and availability of drugs, especially heroin, fuels more consumption, more addiction, more crime, more death, and more human and family destruction. I wish it were not true. I wish there were more options, but law enforcement is a central part of this effort, and history proves it.

I thank the Chair and yield the floor.”